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SUBJECT: Senegal Grapples with Homosexuality

¶1. (SBU) Summary: On April 20, The Court of Appeals of Dakar freed nine homosexual men who had been condemned to eight years in prison in January 2009. The court ruled that the police had contravened the law when they searched their homes and further ruled that the evidence on which the conviction was based was inadmissible. While the Court of Appeals ostensibly based its ruling on sound jurisprudence, the quashing of the sentences can also be credited to international pressure led by France and the European Union (EU), as well as efforts by local human rights organizations. A group of conservative Islamic leaders, outraged by the court's decision, have indicated that they will fight homosexuality. End Summary.

Liberty V Public Order

¶2. (SBU) On April 20, the Court of Appeals disallowed evidence used to convict nine homosexuals because police who searched their homes had done so without a warrant, thereby violating their right of the men to not be subjected to illegal search and seizure. A human rights lawyer told the Embassy that the defendants' attorneys mishandled the case in the first instance by failing to object to the illegal search and seizure. He went on to say that, by the time the case reached the Court of Appeals, the defense attorneys had developed a more effective legal strategy, including appealing directly to the Minister of Justice, an attorney himself, who then instructed the State Prosecutor not to oppose the Court's decision to free the defendants.

Saving Senegal's Image

¶3. (SBU) The GOS faced a lot of pressure from local and international NGOs but the strongest pressure came from the French Government, which expressed concern at cabinet level and criticized both the imprisonment of the homosexuals in the first place and the length of the sentences they received. While President Wade was rumored to have been angered by France's interference, Senegal's term in the Human Rights Council ends in July 2009 and observers speculated that the GOS did not want anything to interfere with the country's election to a new term. It appears that, in order to preserve the country's tolerant image, Wade chose to ignore the criticism in order to remain compliant with international standards of non-discrimination against all minorities.

Outdated Laws and Hysteria

¶4. (SBU) Senegal's criminal Code has no reference to homosexuality but criminalizes what is referred to as "unnatural acts." A senior judge at the Court of Appeals told the Embassy, "Based on this law and how the case was initially handled by the police, any married couple could theoretically be arrested in their home and be prosecuted for unnatural acts." He opined that while this law is outdated, no politician would dare to propose that the law be repealed due to religious and cultural pressures. Nevertheless, in this judge's view, the GOS should simply adopt a policy that refrains from prosecuting homosexuals. Meanwhile, when the nine

homosexuals were freed, their lawyers advised them to leave the home they had rented in MBao (a suburb of Dakar) and to keep a low profile. His advice was prescient because when rumors surfaced that they were in Somone, a resort area south of Dakar, residents of the local village went to find them, presumably to attack them.

The Corpse of a Homosexual Exhumed by an Angry Mob

15. (SBU) The most recent and violent manifestation of homophobia was reported on May 2 in Thies. Young people in the neighborhood of Darusalam exhumed the corpse of a homosexual man, Madiye Diallo, who had just been buried in the local cemetery, the same day around 14:30. When the family was informed that young people from the neighborhood had exhumed the body on the grounds that a homosexual could not be buried in their cemetery, they requested the protection of the police and buried him a second time, around 17:00. The police protected the grave for a couple of hours but, when they left around 20:00, the body was re-exhumed. This time the perpetrators dragged the body to the home of the parents.

16. (SBU) A journalist who witnessed the event told Embassy that because of decency laws he could not give a full accounting in his published report. However, he said that Diallo's burial shroud was completely torn and his body left half-naked. The parents kept the body for fear of reprisals and during the night travelled to the holy city of Touba where they buried their son. A human rights lawyer told Embassy he will ask the GOS to protect the rights of anybody to be afforded a burial and request that those who desecrated Diallo's body be prosecuted. The police did not make any arrests, claiming that the crime had been perpetrated by a mob and as a result no single author could be identified.

DAKAR 00000634 002 OF 002

COMMENT

16. (SBU) Some Islamic organizations have declared that they will oppose what they see as the attempts by the West to impose homosexuality on Senegal. The desecration of Diallo's body came in the aftermath of a rise in homophobic rhetoric by some imams following the court case. Religious brotherhoods have not openly joined the homophobic frenzy but are not likely to condemn it either. Given widespread homophobic sentiment among the Senegalese, the GOS is not likely to investigate or prosecute those who desecrated Diallo's body. While Senegal continues to be a relatively tolerant Muslim country, conservative Islamic values will continue to prevail when brought into direct conflict with individual rights for homosexuals (or women). Many otherwise enlightened or tolerant Senegalese are quick to say that a homosexual's sexual identity is not a problem, as long as a low profile is kept.
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